

STATE OF MICHIGAN
COURT OF APPEALS

LOUIS HAAS,

Plaintiff-Appellant,

v

FORD MOTOR COMPANY,

Defendant-Appellee.

UNPUBLISHED

April 18, 2006

No. 258607

Wayne Circuit Court

LC No. 03-331533-CD

Before: White, P.J., Whitbeck, C.J., and Davis, J.

WHITE, P.J. (*dissenting*).

Because I cannot agree with the majority's recitation of the facts or its determination to affirm the dismissal of plaintiff's claims, I respectfully dissent.

The facts viewed in a light most favorable to plaintiff are that plaintiff worked for defendant for 35 years, from 1966 until 2001. When he left defendant's employ, plaintiff was a Maintenance Supervisor at defendant's Livonia Powertrain Plant, a management position. Plaintiff presented ample documentary evidence below in support of his contention that his supervisors subjected him to pervasive, frequent and severe harassment based on his age and that a reasonable person in his position would have felt compelled to resign.

Plaintiff presented his own deposition, coworkers' deposition testimony, and the affidavit of a coworker, Monte Thames. Thames stated in his affidavit that he overheard one of plaintiff's supervisors, Jason Parsons, a Ford superintendent, say to plaintiff "don't you know that they're out to get you, Lou . . . because they want to get rid of all you old f***ks." Thames' affidavit also stated that Parsons said to Thames directly that it was Parsons' intention to "get rid of the old guys, including" plaintiff. Plaintiff testified at deposition that two of his supervisors, Ron Kincer, his immediate supervisor, and Parsons, Kincer's supervisor, frequently or on a daily basis called him "old man," asked plaintiff "don't you need a less stressful job?", made remarks regarding plaintiff's being a diabetic, e.g., "how's your sugar?", and commented on plaintiff's being senile. Plaintiff also testified that when Parsons became his supervisor, Parsons placed plaintiff on the midnight shift and assigned plaintiff the entire plant by himself. As maintenance supervisor, plaintiff was responsible for the maintenance work for the entire plant (several square miles). Diabetes limits plaintiff's ability to walk, yet Parsons and Parsons' supervisors took away the electric cart plaintiff had had access to, locked it, forced plaintiff to walk the miles of the plant, and then harassed him about not covering all the work. Plaintiff testified that other maintenance supervisors were provided electric carts.

I conclude that plaintiff presented ample evidence from which a reasonable jury could conclude that defendant made plaintiff's working conditions so intolerable that a reasonable person in plaintiff's shoes would feel compelled to resign. The majority refers to plaintiff's having had a disagreement with a supervisor, having taken a leave of absence, and having testified that he did not return to work because he was humiliated by rumors about his conduct. I note that although the leave of absence was medical, plaintiff testified that it was based on the stress he experienced from the perceived harassment, and that plaintiff's deposition testimony also supports that the age-based ongoing pervasive harassment was one of the main reasons he did not return to work, and eventually chose to retire, after the leave expired. These are matters for the jury to consider and weigh, and go to the issue of damages; they do not foreclose plaintiff's constructive discharge claim based on age-based discrimination and harassment.

I would reverse.

/s/ Helene N. White